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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,189	11/03/2003	David James Bennetts	Bennetts 2-5	3986

7590 07/26/2007

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EXAMINER	
EKONG, EMEM	

ART UNIT	PAPER NUMBER
2617	

MAIL DATE	DELIVERY MODE
07/26/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/700,189	BENNETTS ET AL.	
	Examiner	Art Unit	
	EMEM EKONG	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 November 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) ~~1-27~~ 1,5-6, 12-14, 17 & 21 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) ~~1-27~~ all is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *03 November 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 07/09/2007 has been entered.

Specification

2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The Examiner suggests: ELECTRONIC APPARATUS HAVING THREE MODES OF OPERATION.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claim 17 is rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 7,126,588 B2 to Oakley.

Regarding claim 17, Oakley discloses a portable communication device (see fig. 1) comprising a first housing (display housing) and a second housing (base housing 112), each housing comprising a first surface and a second, opposing surface (see fig. 1), said first housing including a first user interface comprising a display (display area 114) disposed in the first surface thereof and said second housing comprising a second user interface in the first surface thereof (keyboard housing 111), said device further comprising a pivot mechanism that permits the first and second housings to be pivoted between a first open position in which the first and second housings are connected to each other and are arranged generally end-to-end with each other (col. 5 lines 33-34), a first closed position in which the first and second housings are connected and the second surfaces of the first and second housings, respectively, face each other such that, in the first closed position, the first user interface is accessible and the second user interface is accessible (see fig. 12, and col. 9 lines 57-65), and a second closed position in which the first and second housings are connected and the first surfaces of the first and second housings, respectively, face each other such that, in the second closed position, the first user interface is inaccessible and the second user interface is inaccessible (see fig. 13, and col. 10 lines 1-10), wherein the device is in a first operational mode in which the first user interface and the second user interface are active when in the first open position (col. 5 lines 29-30, and col. 5 lines 41-43), in a second operational mode when in the first closed position in which the first user interface is active and the second user interface is inactive (col. 9 lines 65-67), and in a third operational mode in which the first user interface and the second user interface are

inactive when in the second closed position (col. 7 line 59-col. 8 line 3, and col. 10 line 10)., means for automatically detecting when the device is in the first open position, the first closed position, or the second closed position, and means for automatically entering the corresponding mode responsive to the means for detecting (col. 7 lines 64-66).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 1, 5-6, and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat. No. 7,197,332 B2 to Andersson et al. in view of Oakley.

Regarding claim 1, Andersson discloses a portable electronic communication apparatus having at least three modes of operation (col. 4 lines 63-66, multi-function device 10) and including a first user-interface comprising a display (display 16) and a second user interface comprising a keypad (keypad 14) , the apparatus including: first and second housing members (panels 22, and 24) each having a first surface and an opposite second surface (col. 5 lines 18-24), the first user interface being provided at the first surface of the first housing member (display 16 is disposed on 24) and the second use interface being provided at the first surface of the second member (see fig. 2. keypad 14 is disposed on 22), and a connecting mechanism for movably connecting the first and second housing members (col. 5 lines 1-2), wherein the position of the first and second members relative to each other determines a mode of operation of the apparatus (col. 3 lines 65-67, and col. 5 lines 2-10) such that, when the first and second housing members are connected and positioned together in a first closed position such that the second surface of the first member is closed toward one surface of the other member such that the user interface is accessible (see fig. 3, and col. 6 lines 9-18), when the first and second housing members are connected and positioned together in a second closed position such that the first surface of the first member is closed toward one surface of the other member such that the first user interface is inaccessible

(see fig. 1, and col. 5 lines 50-58), the apparatus is in a second mode of operation of the user-interface in which the first user-interface is inactive (col. 34-36), and when the first and second housing members are connected and positioned apart from each other in an open position (see fig. 2, and col. 5 lines 59-65), the apparatus is in a third mode of operation of the user-interface comprising a fully operational mode of operation in which the first user interface is active.

However, Andersson fails to disclose a first closed position such that standby mode of operation of the user interface in which the first user interface is inactive, a second closed position such the apparatus is in a second mode of operation of the user-interface in which the first user-interface is inactive, the apparatus is in a third mode of operation of the user-interface comprising a fully operational mode of operation in which the first user interface is active.

Oakley discloses a first closed position such that standby mode of operation of the user interface in which the first user interface is inactive, a second closed position such the apparatus is in a second mode of operation of the user-interface in which the first user-interface is inactive, the apparatus is in a third mode of operation of the user-interface comprising a fully operational mode of operation in which the first user interface is active (col. 5 lines 29-30, col. 5 lines 41-43, col. 7 line 59-col. 8 line 3, col. 10 line 10, and col. 9 lines 65-67).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Andersson, and have a first closed position such that standby mode of operation of the user interface in which the first user

interface is inactive, a second closed position such the apparatus is in a second mode of operation of the user-interface in which the first user-interface is inactive, the apparatus is in a third mode of operation of the user-interface comprising a fully operational mode of operation in which the first user interface is active as disclosed by Oakley for the purpose of having the mobile apparatus operating in a different modes.

Regarding claim 5, the combination of Andersson and Oakley discloses a portable electronic communication device according to claim 4 wherein the apparatus comprises one and only one display (Andersson see figure 2, display 16).

Regarding claim 6, the combination of Andersson and Oakley discloses a portable electronic communication apparatus according to claim 1 further comprising a second user interface at the first surface of the second member (Andersson see fig. 2, keypad 14).

Regarding claim 12, the combination of Andersson and Oakley discloses a portable electronic communication device according to claim 1, wherein the apparatus is switched off in the second closed position (col. 7 line 59-col. 8 line 3, and col. 10 line 10).

Regarding claims 13 and 14, the combination of Andersson and Oakley discloses a portable electronic communication device according to claim 1, wherein the apparatus is a mobile telephone (see fig. 1).

9. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Andersson et al. in view of Oakley.

Regarding claim 27, Oakley discloses a portable communication device according to claim 17, however fails to disclose further comprising means for enabling a user of the device to select at least the second and third operational modes.

Andersson discloses comprising means for enabling a user of the device to select at least the second and third operational modes (col. 8 lines 33-37).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Oakley, and have a means for enabling a user of the device to select at least the second and third operational modes as disclosed by Andersson for the purpose of selectively changing modes of operation.

Conclusion

The following patents are cited to further show the state of the art with respect to apparatus:

U.S. Pub. No. 2002/0154475 A1 to Lammintaus et al.

U.S. Pub. No. 20030119569 A1 to Reed

U.S. Pat. No. 6900981 B2 to Kuivas et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to EMEM EKONG whose telephone number is 571 272 8129. The examiner can normally be reached on 8-5 Mon-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on 571 272 7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EE
07/17/07

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